IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, CRIMINAL JURISDICTION

CRIMINAL APPLICATION NO. 2768 OF 2005
IN
CRIMINAL APPEAL NO. 321 OF 2005

Yatin Ramchandra Dalal. .. ..Applicant
(Orig.Accd. No.1)

Versus

The State of Maharashtra. .....Respondent

Shri. S. V. Marwadi, Advocate, for the Applicant-Orig. Accused No. 1.

Shri. Y. S. Shinde, A. P. P., for the Respondent-State.

CORAM : A. M. KHANWILKAR, J.
DATE : NOVEMBER 21, 2005

P. C.

. Heard learned Counsel for the parties.

2. After going through the evidence on record, in particular the depositions of Prakash Devchand Shirsat (P. W. 1) and Tahir Niyas Ahmed Ansary (P. W.2), I am in agreement with the arguments canvassed on behalf of the applicant that the discrepancy occurring in the evidence that the substance recovered from the applicant as **"morphine"** has been tested by the Chemical Analyser as **"heroin"**. This anomaly has not been

explained in the evidence of the Prosecution witnesses.

3. Shri. Shinde, the learned A.P.P., fairly accepts this position. If it is so, the recovery would become doubtful and that recovery cannot be based to find the guilt against the applicant-accused. Viewed in this perspective, the applicant deserves to be enlarged on bail on the following strict conditions :

i) The applicant is directed to be released on bail in connection with Sessisons Case No. 275 of 2004 on a Personal Bond in the sum of Rs. 50,000/- with two local sureties in the like amount.

ii) The applicant shall report to the Thane Police Station , Crime Branch on the first Monday of every English Calendar Month between 10 A.M. and 12 Noon.

iii) The applicant shall furnish his latest place of residence to the concerned Police Station.

iv) The applicant shall surrender his

passport, if any. If there is no passport, the applicant to file an affidavit disclosing that fact.

3. The criminal appliciation is disposed of in the above terms.

(A. M. KHANWILKAR, J.)